



THE CITY OF NEW YORK  
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**BY ECF**

Honorable Vera M. Scanlon, U.S.M.J.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: Tyrone Brown v. The City of New York, et al., 15-CV-04357-RJD-VMS**

Dear Judge Scanlon:

I am a Senior Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, representing defendants City of New York, John McGurran and Frank Sciortino in the above-referenced matter. I write at your direction to advise the Court as to the City's position on the status of the grand jury minutes produced by plaintiff's counsel.

The City continues to believe, as asserted in court, that grand jury minutes remain sealed notwithstanding their disclosure as Rosario material in an underlying criminal case. Nelson v. People, 2013 U.S. Dist. LEXIS 31154 (S.D.N.Y. Mar. 5, 2013) ("state grand jury material retains its confidential nature notwithstanding a disclosure at a criminal trial"); Rechtschaffer v. City of New York, 05 Civ. 9930 (RJS)(JCF), 2009 U.S. Dist. LEXIS 30294, 2009 WL 773351 at \*3 (S.D.N.Y. Mar. 18, 2009) (same); Turturro v. City of New York, 33 Misc. 3d 454, 455-456 (Kings County 2011) ("regardless of any prior disclosure of grand jury minutes to the defendant in a previous criminal proceeding, he or she is not at liberty to circumvent the safeguards set up by the required procedures of motion practice and judicial control of the minutes by unfettered dissemination and subsequent utilization. Grand jury minutes must retain their confidential status even after a defense attorney is provided with them pursuant to CPL 240.44 and 240.45 and Rosario. Any other outcome would be completely contrary to the public policy of grand jury secrecy and would vitiate the rules and judicial control vested by the case law.").

Notwithstanding, after speaking to representatives at the Bronx County District Attorney's Office, the City will not pursue an objection to the use of the disclosed grand jury minutes in this action.

Respectfully submitted,

/s/

Elissa Fudim  
*Senior Counsel*

CC: Michael Lumer, Esq. (BY ECF)  
*Plaintiff's Counsel*